

ASSEMBLY BILL

No. 1782

Introduced by Assembly Member Maienschein

February 4, 2016

An act to amend Section 31013 of, and to add Section 31020 to, the Corporations Code, relating to franchises.

LEGISLATIVE COUNSEL'S DIGEST

AB 1782, as introduced, Maienschein. Franchises: offer to sell: trade show.

The Franchise Investment Law generally requires a franchisor to register with the Department of Business Oversight before an offer or sale of a franchise in this state and provides that a willful violation of this law is a crime. Existing law provides, among other things, that an offer or sale of a franchise is made in this state when an offer to sell is made in this state, or an offer to buy is accepted in this state, or, if the franchisee is domiciled in this state, the franchised business is or will be operated in this state. Existing law provides that an offer to sell is not made in this state merely because a radio or television program originating outside this state is received in this state.

This bill would provide that an offer to sell is not made in this state merely because a franchisor who is not then offering a franchise for sale in California and has not registered an offering under the Franchise Investment Law secures a space at a franchise trade show from which it offers information about its products, services, or system to the general public under specified circumstances. The bill would also define a franchise trade show for purposes of the Franchise Investment Law and would authorize a franchisor to offer a franchise for sale at a franchise trade show, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 31013 of the Corporations Code is
2 amended to read:
- 3 31013. (a) An offer or sale of a franchise is made in this state
4 when an offer to sell is made in this state, or an offer to buy is
5 accepted in this state, or, if the franchisee is domiciled in this state,
6 the franchised business is or will be operated in this state.
- 7 (b) An offer to sell is made in this state when the offer either
8 originates from this state or is directed by the offeror to this state
9 and received at the place to which it is directed. An offer to sell is
10 accepted in this state when acceptance is communicated to the
11 offeror in this state; and acceptance is communicated to the offeror
12 in this state when the offeree directs it to the offeror in this state
13 reasonably believing the offeror to be in this state and it is received
14 at the place to which it is directed.
- 15 (c) An offer to sell is not made in this state merely because (1)
16 the publisher circulates or there is circulated on his behalf in this
17 state any bona fide newspaper or other publication of general,
18 regular, and paid circulation which has had more than two-thirds
19 of its circulation outside this state during the past 12 months, or
20 (2) a radio or television program originating outside this state is
21 received in this state.
- 22 (d) *An offer to sell is not made in this state merely because a*
23 *franchisor who is not then offering a franchise for sale in*
24 *California and has not registered an offering under the provisions*
25 *of Chapter 2 (commencing with Section 31110) secures a space*
26 *at a franchise trade show from which it offers information about*
27 *its products, services, or system to the general public if a franchisor*
28 *does both of the following:*
- 29 (1) *Notifies the commissioner, in a form approved by the*
30 *commissioner, of its intent to attend and display its concept at the*
31 *franchise trade show at least seven days before the show.*
- 32 (2) *Conspicuously posts in public view within its franchise trade*
33 *show booth a notice, in a form established by the commissioner,*
34 *that states, at a minimum, all of the following:*

1 (A) *The franchisor is not offering a franchise for sale in*
2 *California.*

3 (B) *The franchisor is not legally able to offer a franchise for*
4 *sale in California.*

5 (C) *If anyone associated with the franchisor offers a franchise*
6 *for sale or solicits an offer to purchase a franchise in California,*
7 *that action should be reported to the commissioner.*

8 (D) *The contact information of the commissioner.*

9 SEC. 2. Section 31020 is added to the Corporations Code, to
10 read:

11 31020. “Franchise trade show” means an event in this state
12 that is advertised to, and invites, the general public to that event
13 where franchisors who satisfy the reasonable criteria of the
14 franchise trade show’s organizer may secure a space from where
15 they can inform the members of the general public in attendance
16 about their existing and prospective products, services, or systems.
17 These franchisors may offer a franchise for sale at a franchise trade
18 show pursuant to the provisions of this division.